

Application No. 10/565,337  
Reply to Office Action dated January 2, 2008

### REMARKS

Claims 1-87 are pending and rejected. Applicants respectfully request reconsideration of the rejection in view of the following remarks.

#### Double Patenting

Claims 73 and 77-79 are rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 35, 38 and 42-44 of prior U.S. Patent No. 6,080,170. Applicants respectfully traverse this double patenting rejection.

Statutory double patenting requires the claiming of identical subject matter. Applicants respectfully submit that the instant application does not claim subject matter that is identical to that claimed in Patent 6, 080,170. For example, each of independent claims 73 and 77 of the instant application recite "an infusate comprising a therapy means". This limitation is not expressly recited in any of the cited claims of Patent 6,080,170. Since the corresponding claims have been shown to be non-identical to one another, this rejection should be withdrawn. Applicants respectfully submit.

#### Obviousness-type Double Patenting

Claims 1-87 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-89 of U.S. Patent No. 6,905,505. Claims 1-72 and 83-87 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-34 and 36-37 of U.S. Patent No. 6,080,170. Claims 1-87 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-64 of U.S. Patent No. 5,879,361. Claims 1-87 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-53 of U.S. Patent No. 5,779,721. Claims 1-72 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,524,323. Claims 73-87 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,843,797.

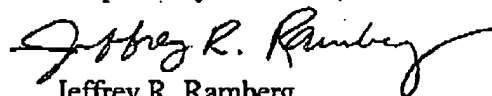
Applicants respectfully submit that the attached Terminal Disclaimer obviates these rejections.

All bases for rejection having been traversed, the application should now be in condition for allowance. Accordingly, Applicants respectfully request issuance of a Notice of Allowance directed to claims 1-87.

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Should the Examiner deem that any further action on the part of Applicants would be desirable, the Examiner is invited to telephone Applicants' undersigned representative.

Respectfully submitted,



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